

REMARKS

The examiner is thanked for her helpful comments regarding improvements to the language of the claims. These have been incorporated above. However, it is believed that the language regarding the possibility that various substituents bind to one another to form a ring is clear as is. To the extent two variables cannot bind, this is clear to a skilled worker and no change is seen necessary.

The double-patenting rejection must be withdrawn. The claims of US '975 relate to various compounds per se. The claims here are drawn to diagnostic contrast agents suitable for near infrared fluorescent imaging or, corresponding methods. Nothing in the claims of US '975, or its specification, for that matter, suggests formulation of such a composition based on the compounds claimed in US '975. Thus, the claims in this application are not suggested and there could be no double-patenting rejection.

Neither Shinoki nor Achileifu, alone or in combination, suggest presence on any disclosed compounds of, for example, the structure depicted in prior claim 3, whose language is now incorporated into claim 1. There being no disclosure of or suggestion of this particular structural feature, for this reason at least, none of the claims can possibly be obvious.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

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